



उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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मामला क्रमांक G.A. 310/ सन् 200/

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	<u>APPELLANT/:</u> (Accused) (In Jail since 12-1-2000) <u>RESPONDENT:</u> -(Criminal appeal under Section 374 of Cr.P.C.)	Chamanlal, Son of Mannulal Satnami, Aged 23 years, R/o Village-Ghanod, P.S. Mandir Hasod, District - Raipur (C.G.) -Versus - State of Chhattisgarh.
	<u>Present:</u> Mr. Jameel Akhtar Lohani, counsel for the appellant. Mr. D.K. Gwalre, Additional Public Prosecutor for the State/respondent.	
	<u>Division Bench:</u> Hon'ble Mr. L.C. Bhadoo and Hon'ble Mr. Dharendra Mishra, JJ. <u>ORAL JUDGMENT</u> (Delivered on 19th April, 2007) <u>L.C. BHADOO, J.</u> 1. This appeal is directed against the judgment of conviction and order of sentence dated 1st March, 2001 passed by the Special Judge, Raipur in Sessions Trial No.129/2000, whereby learned Special Judge after holding the accused/appellant guilty for commission of offence under Section 302 of the I.P.C., sentenced him to undergo imprisonment for life and pay a fine of Rs.1,000/-, in default of payment of fine to further undergo R.I. for one month.	

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	2. Case of the prosecution, in brief, is that on 11-1-2000 when deceased Bindabai along with Sukhi @ Sukhbai (PW-10) was returning to the pond after doing their work in the threshing field, the accused appeared on the scene carrying axe in his hand and attacked Bindabai with the axe on which Sukhi raised cries and called Shyamratan, husband of Bindabai. By the time Shyamratan reached on the spot, the accused attacked Bindabai repeatedly with the axe as a result of which Bindabai succumbed to the injuries sustained by her. The matter was reported by Shyamratan (PW-5) to Police Station: Mandir Hasod, whereupon the first information report (Ex.P-1) was registered. The Investigating Officer left for the scene of occurrence. He seized plain soil and blood stained soil from the place of occurrence under Ex.P-2. He prepared the site plan (Ex.P-3) of the place of occurrence. After giving notice Ex.P-4 to the Panchas, he prepared inquest Ex.P-5 on the body of Bindabai. The Patwari prepared site plan Ex.P-6. Accused Chamanlal gave memorandum Ex.P-8 while in police custody regarding the place where he concealed the axe, weapon of offence, and in pursuance of that he got recovered the axe under Ex.P-9. Clothes of the accused were seized under Ex.P-10. Clothes of the deceased were seized under Ex.P-12. Seized articles were sent to Forensic Science Laboratory, Raipur under Ex.P-13, from where the report Ex.P-13A was received and as per the report, the axe was found stained with blood. Body of Bindabai was sent for post-mortem to Mekahara Hospital, Raipur under Ex.P-16 where Dr. Sanjay Dadu (PW-16) prepared the report Ex.P-19 and opined that the cause of	

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	death was shock and haemorrhage as a result of multiple injuries to the body. 3. After completion of investigation, charge sheet was filed in the Court of Judicial Magistrate, First Class, Raipur, who in turn committed the case to the Sessions Judge, Raipur, from where learned Special Judge, Raipur received the case on transfer for trial. 4. The prosecution examined 16 witnesses at the trial, in order to establish charge against the accused. Statement of the accused was recorded under Section 313 of the Cr.P.C. in which he denied the material appearing against him and stated that he is innocent, he has been falsely implicated in the crime. 5. Learned Special Judge after hearing counsel for respective parties, convicted and sentenced the accused as aforementioned. 6. We have heard Mr. Jameel Akhtar Lohani, learned counsel for the appellant and Mr. D.K. Gwalre, learned Additional Public Prosecutor on behalf of the State/respondent. 7. Mr. Lohani has not disputed the homicidal death of Bindabai. Moreover, Shyamratan (PW-5) – husband of Bindabai and Sukhi @ Sukhbai (PW-10) who witnessed the crime in question have stated that the accused attacked the deceased with axe. Above evidence is corroborated by the evidence of Dr. Sanjay Dadu (PW-16) who has stated that the death of Bindabai was homicidal in nature on account of shock and haemorrhage as a result of multiple injuries. Therefore, it is established that the death of Bindabai was homicidal in nature.	

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	8. As far as involvement of the accused in the crime in question is concerned, Mr. Lohani, learned counsel for the appellant, argued that the accused has been falsely implicated in the crime, whereas, Shyamratan (PW-5) – husband of the deceased himself committed the murder of his wife. 9. - On the other hand, Mr. Gwalre, learned Additional Public Prosecutor supported the judgment of the trial Court. 10. In order to appreciate the argument advanced by learned counsel, we have perused the evidence. Shyamratan (PW-5) – husband of the deceased, has stated in his evidence that on 11-1-2000 (Tuesday) at about 2.45 – 3.00 his wife along with Sukhi was going from threshing field to the pond, at that time, the accused appeared on the scene carrying axe in his hand and attacked his wife on which Bhagwantin Bai raised cries, whereupon he saw that Chamanlal and his wife were standing in front of each other, Bindabai was protecting herself with hands, the accused attacked the deceased with axe on her head, as a result of which she fell down and thereafter, the accused repeatedly attacked her with axe. He rushed towards the accused, but the accused after moving about 10 steps remained standing there, he asked him that he has committed the murder of Bindabai he will also not be saved and the God will punish him, on which the accused said that he came to murder Bindabai and he has murdered her. 11. In cross-examination of this witness (PW-5), no such defence has been raised by the defence counsel that in fact Shyamratan himself	

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	~~attacked his wife and he committed the murder of his wife, nor any~~ suggestion came in cross-examination that on account of any animosity or on any other ground Shyamratan has falsely implicated Chamanlal. The evidence of Shyamratan is corroborated by the evidence of Sukhi @ Sukhbai (PW-10) who was working as labour in the threshing field of Shyamratan with Bindabai. She has categorically stated that the accused attacked Bindabai with axe when they were returning from the threshing field to the pond. In cross-examination of this witness also, defence has not been able to elicit any circumstance which makes the evidence of this witness unreliable or untrustworthy. Moreover, the evidence of Shyamratan is corroborated by the medical evidence of Dr. Sanjay Dadu (PW-16) who prepared the post-mortem report Ex.P-19, and as many as 11 injuries were caused on the body of Bindabai with the axe. The axe in question was seized from the house of the accused at his instance on the memorandum given by him and that axe was sent for chemical examination to Forensic Science Laboratory, Raipur from where report Ex.P-13A was received which suggests that the axe in question was found stained with blood. 12. Therefore, from the above evidence, it is established that the accused was the author of the crime in question and we do not find any illegality or infirmity in the judgment of the trial Court. The appeal has no merit same is liable to be dismissed and it is hereby dismissed.	
Soma	Sd/- L.C.BHADOO Judge	Sd/- DHIRENDRA MISHRA Judge